IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

WP(C).No. 34297 of 2005(G)

PETITIONER:

G.RAGHUVARAN, S/O.GOVINDAN (LATE),
AGE 61 YEARS, PUTHENPURAYIL, ARTTUPPUZHA NORTH PO
TRIKKUNNAPPUZHA (RTD.DRIVER, KSRTC).

BY ADV. SRI.M.R.SUDHEENDRAN
SRI.M.R.HARIRAJ
SMT.REKHA VASUDEVAN
SRI.SURAJ.S

RESPONDENTS:

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1. KERALA STATE ROAD TRANSPORT CORPORATION
REPRESENTED BY ITS MANAGING DIRECTOR,
THIRUVANANTHAPURAM.

2. THE DEPUTY CHIEF ACCOUNTS OFFICER,
O/O.THE MANAGING DIRECTOR, KSRTC,
THIRUVANANTHAPURAM.

3. THE ASSISTANT TRANSPORT OFFICER,
KSRTC, MAVELIKKARA.

BY ADV. SHRI.JOHNSON P.JOHN, SC, KSRTC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/ 12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC 34297/05

APPENDIX

PETITIONER'S EXTS.

EXT.P1 - TRUE COPY OF THE ORDER DATED 8.8.2003 IN W.P.(C) NO.25348/2003 OF THE HONOURABLE COURT.

EXT.P2 - TRUE COPY OF THE JUDGMENT DATED 11.10.2004 IN W.P.(C) NO.25348/2003 OF THE HONOURABLE COURT.

EXT.P3 - TRUE COPY OF THE REPRESENTATION DATED 10.11.2004 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P4 - TRUE COPY OF THE ORDER NO.PA13/0011554/97 DATED 23.9.2005.

EXT.P5 - TRUE COPY OF THE RELEVANT PORTION OF PENSION PAYMENT ORDER/PENSION BOOK OF THE PETITIONER.

RESPONDENTS' EXTS.

EXT.R1(a) - TRUE COPY OF THE PROCEEDINGS DTD. 26.6.97

EXT.R1(b) – TRUE COPY OF THE AUDIT REPORTED DTD. 30.5.2000.

EXT.R1(c) – TRUE COPY OF THE PROCEEDINGS DTD. 3.4.03.

/TRUE COPY/

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 34297 OF 2005-G

JUDGMENT

The petitioner is a retired Driver of the K.S.R.T.C. He retired from service on 31.3.1997. Long after his retirement, from June, 2003 his pension was reduced by Rs.221/- per month without notice. So, he filed W.P.(C) No.25348/2003. This Court stayed the recovery. Finally, the writ petition was disposed of by Ext.P2 judgment, permitting the petitioner to move the K.S.R.T.C by filing a representation and also directing the Managing Director of the K.S.R.T.C to consider his representation. Thereupon he filed Ext.P3 representation on 10.11.2004 before the Managing Director, K.S.R.T.C. The petitioner was heard and the 1st respondent disposed of the said representation by Ext.P4. The reduction in pension at the rate of Rs.221/- per month was not interfered with by the 1st respondent. So, this writ petition was filed, challenging Ext.P4, mainly highlighting the said grievance.

2. The 1st respondent has filed a counter affidavit, in which it is submitted that when the 1990 Pay Revision was implemented, the two options submitted by the petitioner were accepted and acted upon. Later, it

was found that those options were submitted beyond the date of submission of the same. Therefore, on audit objection, the fixation of pay was reviewed and his salary was re-fixed. As a result, there was a corresponding reduction in the pension also. So, the pension was reduced. The petitioner has not filed any reply affidavit.

3. Heard the learned counsel on both sides. The petitioner submits, what is sought to be done is not reducing the pension, but making recovery from the pension. But, the learned standing counsel for the K.S.R.T.C would assert that what is done is only a reduction of pension, as a result of reduction of the basic pay consequent on the re-fixation of the salary in the light of the audit objection. It is also submitted that the amount recovered from the petitioner has been refunded to him.

4. I think, the K.S.R.T.C must be conceded freedom to rectify any mistake in the fixation of pay and consequential computation of pension. But, there cannot be any recovery of the excess amount paid, based on the re-fixation of salary, either as pay or as pension. So, the reduction in pension has to be upheld. The petitioner cannot claim any amount which he is ineligible to get. But, excess payments, if any, made to the petitioner

towards salary or pension shall not be recovered from him.

The Writ Petition is disposed of as above.

12th December, 2007. **K.BALAKRISHNAN NAIR, JUDGE**.

Nm/